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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,533	03/23/2004	Christopher Dilluvio	5362-000485	3428

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EXAMINER

MORROW, JASON S

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,533

Applicant(s)

DILLUVIO, CHRISTOPHER

Examiner

Jason S. Morrow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-23 and 25-41 is/are rejected.
- 7) ☒ Claim(s) 11, 24 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/30/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claim 8 is objected to because of the following informalities: A period is needed at the end of claim 8. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 14 and 15, the structural member is recited as being “selectively coupled adjacent the opposing quarter panel section”. However, in lines 15 and 16, the structural member is recited as being “uncoupled from the opposing quarter panel sections”. Thus it is unclear if the structural member is coupled adjacent the quarter panel sections or to the quarter panel sections.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 7-10, 12-18, 20-23, 25-35, and 37-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Schenk et al. '606.

Re claim 7, Schenk et al. discloses an automotive vehicle comprising a retractable roof (2) operable between raised and stowed positions, and a moveable structural member (12') operable to selectively provide significant structural support and rigidity (by being connected to the body at 42 and 40) to a vehicle body on which said retractable roof is utilized, said structural member selectively coupled to said vehicle body between adjacent body panel structures (vehicle rear quarter panels shown in figure 1) of said vehicle body in a cross-vehicle orientation, and said structural member being uncoupled from said vehicle body (at 42 shown in figure 7) when said retractable roof is moving between said raised and stowed positions.

Re claim 8, Schenk et al. discloses a decklid (8') operable between first and second positions (see figures 7-10), said decklid when in said first position covering at least a portion of said retractable roof when in said stowed position (in figure 7), and said decklid allowing movement of said retractable roof between said raised and stowed positions when said decklid is in said second position (figure 9).

Re claim 9, the structural member is coupled to said vehicle body when said decklid is in said first position (shown in figure 7) and is uncoupled from said vehicle body (shown in figure 9) when said decklid is in said second position.

Re claim 10, the structural member is coupled to said decklid and moves with said decklid between said first and second positions (see figures 7 and 9).

Re claim 12, said retractable roof is a hard-top retractable roof (column 3, line 3).

Re claim 13, said retractable roof is a soft-top retractable roof (column 5, lines 1 and 2).

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Re claim 14, a retaining mechanism (41, 42) is attached to said vehicle body between said adjacent body panel structures, said retaining mechanism being operable to selectively couple said structural member to said vehicle body.

Re claim 15, a retraction mechanism (column 1, lines 7 and 8) is operable to move said retractable roof between said raised and stowed positions.

Re claim 16, Schenk et al. discloses a decklid system for an automotive vehicle, the decklid system comprising a storage compartment covering panel (8') configured to cover a portion of an automotive vehicle, a panel mechanism (44, 40) operable to move said panel between a first position (figure 7) covering said portion of said automotive vehicle and a second position (figure 9) allowing accesses to said covered portion, and a structural member (12') operable to selectively provide structural support and rigidity to a body of the vehicle (by being connected to the body at 42 and 40), the structural member extending in a cross-vehicle orientation, being engaged with the body of the vehicle, and providing the support when the panel is in the first position, and the structural member being disengaged from the body of the vehicle when the panel is in the second position.

Re claim 17, a retaining mechanism (42) on said body of said vehicle is provided and wherein said structural member selectively engages with said retaining mechanisms to provide said structural support to said body of said vehicle.

Re claim 18, the retaining mechanism includes a latching member (41) operable to latch said structural member to said retaining mechanism.

Re claim 20, said retaining mechanism has a sloped surface that aligns said structural member with said retaining mechanism (it is inherent to the reference that the retaining mechanism would have a sloped shape to match the sloped shape of the latching member).

Re claim 21, said structural member has a sloped surface that is complementary to said sloped surface of said retaining mechanism and said sloped surfaces align said structural member with said retaining mechanism (it is inherent that the mating shapes would assist in alignment).

Re claim 22, said retaining mechanism has a clamping member that selectively clamps said structural member to said retaining mechanism (it is inherent that some type of clamping member must exist to hold 41 and 42 together).

Re claim 23, a pin member (the body of 41) is operable to align said structural member with said retaining mechanism.

Re claim 25, said structural member is attached to said panel.

Re claim 26, said panel is a two way opening panel, said panel mechanism is operable to move said panel to a third position (shown in figure 8) to allow access to said covered portion of said vehicle, and access to said covered portion of said vehicle when said panel is in said second and third positions being from different directions.

Re claim 27, said structural member extends in a cross-vehicle orientation between opposing body panel structures (the quarter panels of the vehicle, see the broken lines in figure 8) of said body of said vehicle when providing said support.

Re claim 28, Schenk et al. discloses a method of manufacturing a universal stowage area in an automotive vehicle for stowing a convertible roof and providing substantially an equivalent torsional rigidity to the stowage area regardless of the convertible roof being a soft-top or hard-

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top convertible roof, the method comprising (a) positioning retaining mechanisms (41, 42) in the storage area of the automotive vehicle, (b) attaching a moveable structural member (12') operable to engage with said retaining mechanisms to provide significant structural support and torsional rigidity to the storage area; and (c) selectively securing said structural member to the storage area of the vehicle with said retaining mechanisms.

Re claim 29, step (b) includes installing a second mechanism in the storage area that is operable to move said structural member between a first position enabling said structural member to engage with said retaining mechanisms and a second position disengaged from said retaining mechanism and allowing clearance for raising and stowing a convertible roof (see figures 7 and 9).

Re claim 30, the method includes securing a decklid panel (8') to said second mechanism that moves with said structural member between said first and second positions.

Re claim 31, the method includes installing a hard-top convertible roof system in the vehicle (column 1, line 5).

Re claim 32, the method includes installing a soft-top convertible roof system in the vehicle (column 5, lines 1 and 2).

Re claim 33, Schenk et al. discloses a method of moving a retractable roof between a raised position covering a portion of a passenger compartment of a vehicle and a stowed position in a storage area of the vehicle, the method comprising (a) moving a structural member (12') that extends across the storage area from a first position providing significant structural support and rigidity to the storage area to a second non-interfering position (figure 9) that allows movement of the retractable roof between the raised and stowed positions, (b) moving the retractable roof

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between the raised and stowed positions and (c) moving said structural member from said second position to said first position.

Re claim 34, the step (a) includes disengaging said structural member from a retaining mechanism (42) in the storage area and (c) includes engaging said structural member with said retaining mechanism.

Re claim 35, the step (c) includes securing said structural member to said retaining mechanism with a latch (41, 42).

Re claim 37, the step (c) includes securing said structural member to said retaining mechanism with a clamp (it is inherent that some type of clamping member must exist to hold 41 and 42 together).

Re claim 38, the step (c) includes aligning said structural member with said retaining mechanism with a pin (the body of 41).

Re claim 39, the step (c) includes moving said structural member along a sloped surface (it is inherent to the reference that the retaining mechanism would have a sloped shape to match the sloped shape of the latching member) of said retaining mechanism to align said structural member with said retaining mechanism.

Re claim 40, the step (a) includes moving a decklid panel from a first position covering a portion of the storage area to a second non-interfering position (figure 9) that allows movement of the retractable roof between the raised and stowed positions and (c) includes moving said decklid panel from said second position to said first position.

Re claim 41, the steps (a) and (c) include moving said structural member and said decklid panel in unison (see figure 9).

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Allowable Subject Matter

8. Claims 11 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 1-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Taga discloses a latch. Antreich, Guillez et al., Willard, Sande, Tezuka, Weissmueller et al., and Plesternings disclose vehicle body portions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (571) 272-6663. The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason S. Morrow
Primary Examiner
Art Unit 3612

May 11, 2005


JASON MORROW
PRIMARY PATENT EXAMINER

5/12/05